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Letter dated 13 May 2002 from the Chairman of the Security Council Committee established pursuant to resolution 1267 (1999) concerning Afghanistan addressed to the President of the Security Council

In accordance with paragraph 10 of Security Council resolution 1390 (2002), I have the honour to transmit herewith a report of the Monitoring Group established pursuant to resolution 1363 (2001). I should be grateful if it could be brought to the attention of the members of the Security Council and issued as a document of the Council.

(*Signed*) Alfonso **Valdivieso**
Chairman
Security Council Committee established
pursuant to resolution 1267 (1999)

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Annex

Letter dated 29 April 2002 from the Chairman of the Monitoring Group established pursuant to resolution 1390 (2002) addressed to the Chairman of the Security Council Committee established pursuant to resolution 1267 (1999) concerning Afghanistan

On behalf of the members of the Monitoring Group established pursuant to Security Council resolution 1363 (2001) and assigned, pursuant to resolution 1390 (2002), to monitor for a period of 12 months the implementation of the measures referred to in paragraph 2 of the latter resolution, I have the honour to enclose a report in accordance with paragraph 10 of resolution 1390 (2002) and your letter of 20 March 2002.

(*Signed*) Michael E. G. **Chandler**
Chairman
Monitoring Group
pursuant to resolution 1390 (2002)

(*Signed*) Hasan A. **Abaza**
Expert member

(*Signed*) Philippe **Graver**
Expert member

(*Signed*) Surendra **Shah**
Expert member

Enclosure

Report of tne Monitoring Group established pursuant to Security Council resolution 1363 (2001) and extended by resolution 1390 (2002)

Summary

In paragraph 10 of its resolution 1390 (2002), the Security Council requested the Monitoring Group, to report to the Committee by 31 March 2002 and thereafter every four months. In keeping with the spirit of the resolution and the commitment to keep the Committee informed of its work, the Chairman of the Group proposed that the date of submission of the initial report be extended to 30 April 2002 to allow the Group to analyse the "90-day" reports from States, which were due by mid-April.

The Group was mandated to monitor, for a period of 12 months, the implementation by States of the measures referred to in resolution 1390 (2002) with respect to Osama bin Laden, al-Qa'idah and the Taliban, their associates and associated entities. The measures include a freezing of funds and other financial and economic assets, a travel ban against the individuals on the United Nations consolidated list, and an embargo on the sale, supply or transfer of weapons and ammunition and all other related military materiel and support to those on the list.

In order to fulfil the mandate, which is very broad, comprehensive and challenging, the Group adopted a twin-track approach. The first involves the acquisition and analysis of information obtained from many sources, including Governments and international and regional organizations. Concurrent with these activities the Group has commenced investigations into a number of specific cases, which concentrate on individuals and entities alleged to be in violation of sanctions imposed by the Security Council.

This first report covers the preparatory phase. One of the key instruments available to States to enable them to effectively implement resolution 1390 (2002) is the list. The Group has made a number of recommendations concerning the list with the aim of enabling States to use it more easily and effectively. These include the number of identifiers for individuals and entities on the list, the "cultural construction" of some of the names, the position of titles and the format in which the list is maintained.

The Group has noted that al-Qa'idah and its associates appear to have diversified the movement and security of their finances by acquiring commodities such as gold and diamonds, and by using alternative remittance systems in addition to the formal banking system. In the case of the trade in rough diamonds, the report makes reference to the progress being made with the Kimberley Process.

The Group met early in the reporting period with representatives of Afghanistan, the Islamic Republic of Iran, Pakistan and Saudi Arabia to ascertain the measures their Governments were implementing with respect to the movement of pilgrims to the hajj and the possibility that individuals subject to the travel ban might try to escape. The recommendations made in relation to the list will also facilitate the implementation by States of measures related to the travel ban.

On the subject of the arms embargo, the Group wishes to reinforce some of the measures already recommended by other United Nations expert panels concerning the standardization of end-user certificates. In addition, the Group is working to establish a register of all known arms dealers and would recommend that all arms-producing countries become participating States in the Wassenaar Arrangement.

As at 29 April 2002, 43 reports had been received from States as requested by the Security Council in paragraph 6 of resolution 1390 (2002). The Group has been able to make an initial comparative assessment of 33 of these reports, an overview of which is included in the present report.

The Group is conscious that some of the points discussed and the recommendations made in this preliminary report may appear initially to have broad implications, but they have been made in the knowledge that, without the commitment of States to general controls and conventions, it will be more difficult to implement measures which are specific to resolution 1390 (2002) with respect to Osama bin

Laden, members of the al-Qa'idah organization, the Taliban and others.

The Group is appreciative of the support and assistance provided to date by the majority of States, an approach which the Group would encourage all States to adopt, as without such commitment it will be difficult for the Group to effectively implement its mandate.

As a result of the information acquired to date and its analysis, the Group will, during the next phase, concentrate its efforts in working closely with Governments, organizations and agencies of States in Europe, the Middle East, and central and southern Asia.

I. Introduction and background

1. The Security Council, on 16 January 2002, acting under Chapter VII of the Charter of the United Nations, adopted resolution 1390 (2002) imposing financial prohibitions, a travel ban and an arms embargo on Osama bin Laden, members of al-Qa'idah, the Taliban and other individuals, groups, undertakings and entities as referred to in the list established and maintained by the Committee established pursuant to resolution 1267 (1999).

2. By paragraph 9 of resolution 1390 (2002), the Security Council requested that the Secretary-General assign the Monitoring Group established pursuant to paragraph 4 (a) of resolution 1363 (2001) to monitor for a period of 12 months the implementation of the measures referred to in paragraph 2 of resolution 1390 (2002). In paragraph 10 of resolution 1390 (2002), the Security Council requested the Group to report to the Committee established pursuant to resolution 1267 (1999).

3. The Group's previous mandate, pursuant to Security Council resolution 1363 (2001), had considerable visibility, in that it focused, to a large extent, on the States contiguous with Afghanistan, together with States that had demonstrated support and/or sympathy for the former Taliban regime. The Group's current mandate is markedly different in that it is now more comprehensive and much broader. Furthermore, whereas the Group's previous mandate provided for the deployment of up to 15 specialists on the ground, in the form of a Sanctions Enforcement Support Team, no such provision exists in this new mandate. Thus, the effective implementation of the Group's mandate rests squarely with the Group and the full and unfettered support of States.

II. Methodology

4. Whereas the majority of Security Council mandatory measures have been used against States, sanctions have also been imposed against factions within States, individuals and entities. The measures imposed by resolution 1390 (2002) make possible the concentration of coercive pressure on the targeted individuals and entities. Their implementation, however, requires not only the compliance of States in taking measures as determined by the Security Council but also enhanced cooperation among States. The main challenge for States is to devise an efficient and effective way to implement the measures, given that the nature of the activities that Osama bin Laden, members of al-Qa'idah, the Taliban and their associates are engaged in precludes determination of their particulars. Equally testing is the fact that the targeted individuals and entities are not located in any particular geographical area and that their targeting has assumed global proportions.

5. In view of the magnitude of the task and the challenge it presents, the Group has undertaken a careful review of the approaches that it could take in order to remain focused on the mandate, while simultaneously taking due account of the wider implications of the imposed measures. Consequently, the Group has adopted a twin-track approach. The first involves the acquisition and analysis of relevant information, obtained through discussions with officials of government departments, international and regional organizations, financial institutions and the myriad open sources. Concurrent with these activities the Group has commenced investigations into a number of specific cases, which concentrate on individuals and entities alleged to be in violation of sanctions.

6. This initial report summarizes the preparatory phase of the Group's work and covers the progress made to date in implementing its mandate.

III. Consolidated list

7. The list compiled by the Committee is one of the key instruments available to States to enable them to

effectively implement the measures set out in resolution 1390 (2002). The list forms the basis for government action to freeze bank accounts and other financial or economic assets as well as to prevent the entry into, or the transit through, their territories of those whose names appear on the list. It is also the basis for action to prevent the direct or indirect sale and supply of arms and related materiel, weapons, ammunition, military vehicles, equipment, and the provision of training and assistance to the individuals and entities on the list.

8. During discussions with the Group, a number of government officials expressed concern about the list. The Group informed them that any queries concerning the list should be directed to the Committee, which is responsible for ensuring that the list is kept up to date on the basis of relevant information provided by States. Responding to specific questions about the use of the list in the process of implementing the measures set out in resolution 1390 (2002), those officials indicated that, at the technical level, it presented some problems. It was pointed out that the lack of additional information could at times hinder the ability of States to take the required action.

9. It should be noted that a number of government and banking officials told the Group that they were not aware of the existence of the list established pursuant to Security Council resolutions 1267 (1999), 1333 (2000) and 1390 (2002). Some of them were mindful of the United States Executive Order 13224 (Comprehensive List of Terrorists and Groups Identified under Executive Order 13224), while others noted that one of the problems they experience in performing their duties is that they need to handle too many lists. On all occasions, the Group informed its interlocutors that the Committee maintains a web site to make available and disseminate the list and other relevant information concerning the implementation of the measures set out in resolution 1390 (2002).[1]

10. In reviewing the list, the Group noted that in a number of cases there are insufficient identifiers, while in others the "cultural construction" of the names may leave implementation of the resolution open to possibilities of non-compliance.

11. The Group recognizes that at times the information may not be available or that it may not be possible to make it public so as not to compromise security or ongoing investigations. However, the Group believes that, to the best of their ability and to the extent possible, States should strive to provide as many identifiers as possible, when submitting names of individuals and entities.

12. For individuals the identifiers should, where possible, include:

- Full name
- Aliases
- Gender
- Date of birth
- Place of birth
- Nationality
- National identity number
- Official residence
- Current/last known address
- Passport number and photographs
- Bank account numbers.

13. Additional information, whenever available, may include items such as:

- Family relationships
- Title/position/rank
- Visas
- Employment
- Other identifying numbers
- Places routinely visited.

14. For entities the identifiers may include:

- Full name
- Addresses of head offices and all branches
- Office coordinates — telephone, fax, telex, e-mail and web site addresses
- Registration numbers
- Bank account numbers

[1] http://www.un.org/Docs/sc/committees/Afghanistan/Afg_list_eng.htm.

- Full names, addresses, nationalities and positions of directors and senior managers.

15. The Group also noted that some improvements could be made to the list so that States would be able to use it more easily and effectively. In the process of updating the list, the Group recommends that greater attention be paid to the "cultural construction" of the names of individuals. For example, there are certain protocols in the Arabic language and in Islamic countries that govern the order in which the components of a name are placed. These need to be followed to reduce the possibilities for confusion. It is equally important that, whenever possible, names are submitted in their original language.

16. The Group also recommends that the Committee consider moving any titles, such as Mullah, accorded to certain individuals, so that the title appears after the name and not before it. It should be noted that the title is unlikely to feature in travel documents or in the details of individuals' bank accounts.

17. Notwithstanding the advantages of maintaining the list in alphabetical order, the Group recommends that the Committee maintain it chronologically and numerically. On those occasions when a name is added to the list, it should be placed at the end. When deleting a name, the serial number should be retained, and a note should be added indicating the date on which the name was deleted, the reference of the pertinent decision of the Committee or any other explanation the Committee may deem appropriate.

IV. Freezing of financial assets

18. In paragraph 2 (a) of resolution 1390 (2002), the Security Council requested States to freeze without delay the funds and other financial assets or economic resources of the individuals whose names appear on the list, as well as the funds and other financial assets or economic resources of

> "... groups, undertakings and entities, including funds derived from property owned or controlled, directly or indirectly, by them or by persons acting on their behalf or at their direction, and ensure that neither these nor any other funds, financial assets or economic resources are made available, directly or indirectly, for such persons' benefit, by their nationals or by any persons within their territory."

19. In monitoring and assessing the technical effectiveness and efficacy of the measures described above, the Group has been making use of "link analysis", drawing on open sources and supplementary assistance from Governments and others in seeking to identify individuals and entities associated with those whose names appear on the list. The Group has approached some States to ascertain the success of the measures they have taken and will follow up this approach with visits to these and other countries where significant funding of and associations with Osama bin Laden, al-Qa'idah and the Taliban have previously been identified.

20. The Group welcomes the entry into force on 10 April 2002 of the International Convention for the Suppression of the Financing of Terrorism. It is anticipated that the countries that are now parties to the Convention are in the process of developing the legal apparatus needed to implement the measures called for in the Convention, as well as relevant Security Council resolutions adopted under Chapter VII of the Charter. In combination with the measures mandated by the Council in resolution 1373 (2001), by paragraph 6 of which it established a committee to monitor the implementation of the resolution, known as the Counter-Terrorism Committee, the Group is of the opinion that an environment now exists that is more conducive to the adoption by States of legislation which will enable them to meet their responsibilities under resolution 1390 (2002). For those countries which still lack the necessary legislation, there are a number of bilateral and other initiatives potentially available to provide them with assistance.

21. In addition to the sources of advice and expertise available through the Counter-Terrorism Committee, the members of the Financial Action Task Force on Money Laundering (FATF) are capable of providing assistance to non-FATF members, as appropriate, to comply with its recommendations on terrorist financing.[2] Furthermore, discussions are under way at the Terrorism Prevention Branch of the Centre for International Crime Prevention in Vienna to set up a

[2] The Counter-Terrorism Committee maintains a directory of advice and expertise in the areas of legislative and administrative practices covered by resolution 1373 (2001). The directory is available at http://www.un.org/Docs/sc/committees/1373. The recommendations of FATF and related information are available at http://www1.oecd.org/fatf/TerFinance_en.htm.

programme to provide assistance, if requested, to countries to incorporate the provisions of Security Council resolutions into their domestic legal systems.

22. The Group is of the view that States should make every effort possible to incorporate the necessary regulations into the rules governing their financial systems to ensure that the funding of terrorist activities is curtailed. In this regard practical measures may include the freezing of assets and the blocking of funds of the individuals and entities on the list.

23. The Group has been informed that, by the end of March 2002, no less than 144 countries had blocking orders in place in the context of the war on terrorism. As a result of these orders US$ 103.8 million in assets have been blocked worldwide since 11 September 2001. Approximately half of this sum represents assets connected with Osama bin Laden and al-Qa'idah. The Group is in the process of reviewing the reports submitted pursuant to resolution 1390 (2002) and expects to have a better understanding of the amount of assets frozen by individual States and the problems they have encountered in the process.

24. Notwithstanding the freezing of assets referred to above, it is quite difficult to differentiate among transactions related to "laundered money", organized crime and the financing of terrorist activities. Prior to 11 September 2001, a number of countries had measures in place to combat money-laundering. One of these measures is the "suspicious transaction report", which requires banks to notify their governmental authorities of any abnormal money transactions occurring on their customers' accounts. Individual States set the figure which, if exceeded, acts as one of the criteria by which banks will recognize a suspicious transaction. States may adopt different formats for a suspicious transaction report. An example of a blank suspicious transaction report currently used by the Economic Crime Unit of the United Kingdom's National Criminal Intelligence Service is in annex I.

25. One of the terrorists involved in the attack on the World Trade Center of 11 September 2001, Mohammed Atta, had received a transfer of $69,985 into his account. Atta's bank filed a suspicious transaction report with the Financial Crimes Enforcement Network (FinCEN) of the United States Department of the Treasury. However, this particular transaction was not noticed quickly enough because the report was just one of a very large number and was not distinguishable from those related to other financial crimes.

26. Another way in which criminals and terrorists move their money, to avoid detection, is by means of the Internet. The Group is particularly concerned about the use of the Internet by al-Qa'idah and many of its associates, not only regarding financial transactions but also in support of their communications, command, control and logistics. The Group has commenced investigations with key agencies into the feasibility of preventative measures and means of interdiction which will disrupt and neutralize the ability to operate of such criminals.

27. As a result of the freezing of assets that has been and continues to be carried out globally, there are allegations that al-Qa'idah, for now at least, may be diversifying financial aspects of its logistics support by converting parts of its assets into gold, diamonds and other precious stones, for example lapis lazuli and sapphires. In addition, it has been suggested that it is making use of long-established alternative remittance systems such as *hawala* to move funds.

28. To date, the Group has not been able to substantiate these allegations, but has commenced detailed investigations into these alternative methods of financing. As a first step, and building on the experiences of United Nations expert panels that have been investigating the "conflict" diamond trade, the Group has held a series of meetings in Brussels and Antwerp both with government officials and at the High Diamond Council, to see at first hand the system of controls that has been put in place, including controls to combat the movement of "conflict" diamonds.

29. It was interesting to note the contents of unsolicited reports in Belgian newspapers which accompanied the Group's visit. Although the reasons for the Group's visit, on that occasion at least, were not accurately reported, the very fact that investigations into the affairs of certain dealers were intimated would clearly indicate that some aspects of the business may warrant further investigation, a matter which has been discussed with the Belgian authorities. Events such as the ones described may also indicate the deterrent effect of such a Security Council-mandated group.

30. The Group is concerned that, even with effective controls and their conscientious operation, the diamond trade might be abused to provide a vehicle for money-

laundering and moving financial assets around the world by al-Qa'idah and its associates. The Group welcomes the progress made to date with the Kimberley Process, which aims to establish an international certification scheme for rough diamonds, based primarily on national certification schemes and internationally agreed minimum standards for the basic requirements of a certificate of origin.

31. The Group would suggest, however, that participating States strive for greater accountability and transparency as suggested in the report by the United States General Accounting Office presented to the United States Senate on 13 February 2002.[3] The Group is also concerned that certain States, which now feature prominently in the international rough diamond trade, are not participating in the Kimberley Process.

32. With the benefit of the knowledge gained to date, the Group now intends to visit States in the Gulf region and southern Asia to discuss, with the appropriate authorities, ways and means of implementing regulations and controls in a geographical area where there is a flourishing and unregulated trade in gold and diamonds and in which allegations exist, still unconfirmed by the Group, of al-Qa'idah and Taliban finances and assets being exchanged. This geographical area is also one of the main centres of operation and extensive utilization of the *hawala* system.

33. The Group would like to point out that the *hawala* alternative remittance system could be an obstacle to the implementation of the provisions of paragraph 2 (a) of resolution 1390 (2002). Funds can be frozen only if a formal bank account exists. The *hawala* system allows for the transfer of value without moving money from one bank account to another. Based on trust and the extensive use of connections such as family relationships or regional affiliations, the system allows individuals or entities to transfer value simply on the basis of communications via telephone, fax or e-mail between members of a network of *hawaladars*, or *hawala* dealers, without moving any money.[4] The system is quite often preferred by some groups and individuals, since it can be more cost-effective, efficient and reliable, as well as less bureaucratic, than obtaining a cheque or ordering a wire transfer. Furthermore, using the *hawala* system to transfer value leaves virtually no paper trail, making it a preferred means for illicit financial transactions and money-laundering.

34. The attention of the Group has also been drawn to the extent to which some charitable organizations are said to feature as a financial conduit for the support of al-Qa'idah. The Group is conscious of the fact that the majority of charities fulfil the humanitarian assistance functions for which they have been established. In many countries, however, these humanitarian organizations are free to operate without government controls, leaving them open to being used as a cover, often in parallel with the functions stated in their charter, for funnelling finance to al-Qa'idah and its supporters and associates. The Group intends to investigate further this aspect in conjunction with the appropriate fiscal authorities of the States.

V. Travel ban

35. In paragraph 2 (b) of resolution 1390 (2002), the Security Council requested States to "prevent the entry into or the transit through their territories" of individuals on the list.

36. All individuals whose names appear on the list are barred from travelling to and through States. The Group realizes that not all those on the list will be directly affected by the travel restrictions. Travel bans carry greater weight when applied against individuals who wish to travel internationally using international commercial flights and those who wish to travel openly. In the case of members of the former Taliban regime who are on the list, the Group is of the opinion that many may not have the need or the desire to travel internationally. This does not mean, however, that they may not attempt to cross the border into a neighbouring country. In the case of al-Qa'idah and its associates, the travel ban is more meaningful because it may assist in hampering the movement of individuals who intend to engage in terrorist activities.

37. Early in the reporting period, the Group met with representatives of Afghanistan, the Islamic Republic of Iran, Pakistan and Saudi Arabia to ascertain the measures their Governments had taken with respect to the travel ban, especially in the light of the then

[3] United States General Accounting Office, "International trade: significant challenges remain in deterring trade in conflict diamonds" (GAO-02-425T).

[4] For an example on how the system works, see P. M. Jost and H. S. Sandhu, *The Hawala Alternative Remittance System and Its Role in Money Laundering* (Interpol-FinCEN, 2000), pp. 7-10.

impending hajj and the likelihood that some members of the former Taliban regime and al-Qa'idah might use the opportunity of travel related to the hajj to try to escape. The Group was briefed on the quota system that had been developed for the number of pilgrims from each country and its operation. The Group was also informed about additional measures that had been taken including tighter monitoring of the borders, particularly of those States contiguous with Afghanistan; deployment of additional personnel; adoption of more sophisticated checking and registration procedures at entry points, as well as compilation and distribution of visa and entry stop lists.

38. The Group was also briefed on the comprehensive measures the Government of Saudi Arabia had taken to ensure that neither al-Qa'idah nor any other faction or group would disrupt the religious observances in Makkah and Medina.

39. While recognizing that stringent visa regimes may help in preventing the movement of individuals on the list, the Group acknowledges that visa requirements differ from country to country and that countries, especially those that share a common border, may adopt special bilateral visa regimes. The Group has noted that steps have been taken by a number of countries bordering Afghanistan to include changes in their visa regimes to make it more difficult for supporters of al-Qa'idah and members of the former Taliban regime to enter their territory.

40. The Group will continue to ascertain whether States are encountering problems in implementing the travel ban and whether relevant and appropriate information concerning paragraph 2 (b) of resolution 1390 (2002) is made available to consular and immigration officials and those responsible for border controls and at border entry points.

41. On 14 February 2002 the Group informed the Permanent Mission of Pakistan to the United Nations, on the basis of information received, that five important members of the Taliban and/or al-Qa'idah, were at large in Pakistan. The Group noted the arrest on 28 March 2002 in Faizalabad of one of the five named, namely Abu Zubaydah, by Pakistani law enforcement agencies.

VI. Arms embargo

42. In paragraph 2 (c) of resolution 1390 (2002), the Security Council requested States to

> "prevent the direct or indirect supply, sale and transfer, to [the] individuals, groups, undertakings and entities [on the list] from their territories or by their nationals outside their territories, or using their flag vessels or aircraft, of arms and related materiel of all types including weapons and ammunition, military vehicles and equipment, paramilitary equipment, and spare parts for the aforementioned and technical advice, assistance, or training related to military activities".

43. The Group's task of monitoring the arms embargo is very complex. Unlike other arms embargoes imposed by the Security Council on a State or non-State actor, this one is not confined to a specific area but applies to every location where an al-Qa'idah member or Taliban fighter could shelter or be based. The Group remains concerned that members of the Taliban and al-Qa'idah continue to engage in guerrilla warfare in certain parts of Afghanistan, therefore posing a considerable threat to peace and security. This assessment is supported by recent reports of the "hit and run" attacks against both the International Security Assistance Force, in and around Kabul, and the United States-led coalition forces in a number of locations in southern and eastern Afghanistan. With this shift in their tactics, the weapons that al-Qa'idah and the Taliban are likely to use are small arms, light support weapons, man-portable missile systems, mortars and rocket launchers.

44. Consequently, it is increasingly important for the Group to focus its monitoring efforts on the movement of these types of arms and the associated ammunition. It is estimated that there are approximately 10 million small arms in Afghanistan.[5] These weapons are relatively easy to produce and conceal. Furthermore, the producers of such weapons are numerous and the smuggling networks are well developed and organized.

45. The ability of the Taliban and al-Qa'idah to engage in heavy fighting with very well equipped and trained military forces implies that they still have access to weapons and ammunition in sufficient quantities. For instance, during the United States-led

[5] *Small Arms Survey 2001* (Geneva, Graduate Institute of International Studies), p. 63.

operation "Anaconda"[6] it was reported that some firefights lasted for up to 18 hours. It is estimated that in the prevailing circumstances 100 fighters could fire around 15,000 rounds of small arms ammunition per hour. Although the Group has not been able to verify the sources of the ammunition used in those engagements, it considers that al-Qa'idah and the Taliban can no longer rely exclusively on stockpiles stored in caves and other places, since much of it has been seized or destroyed over the past six months. Therefore it must be assumed that al-Qa'idah and the Taliban fighters in Afghanistan continue to be supplied with ammunition and weapons. Consequently, the arms embargo imposed by resolution 1390 (2002) does not seem to have been entirely successful in achieving one of its objectives.

46. The Group has taken steps to review regulations by which States govern the operation of licit arms brokers operating from within their territories. The Group is in the process of compiling a list of all known arms brokers, including those who have, allegedly, been involved in breaching United Nations arms embargoes. In this regard, the Group has requested from a number of States a list of arms brokers and is waiting for a reply. This would enable the Group to verify and identify gaps in information currently being analysed.

47. The Group is also checking the regulations of States concerning arms transfers, to determine whether or not there are gaps in legislation that would enable traffickers to take advantage of loopholes.

48. Building on the working relationship already established by the Group and, before it, by other United Nations expert panels with the Wassenaar Arrangement on Export Controls for Conventional Arms and Dual-Use Goods and Technologies, the Group has met with the Arrangement's secretariat to discuss a number of issues. As a result of the Group's request concerning illicit arms brokering, the public statement issued by the Wassenaar Arrangement at its seventh plenary meeting (Vienna, 6 and 7 December 2001) contained the following observation:

> "Participating States recognized the importance of controlling arms brokering and agreed to continue discussion with a view to elaborating and refining the criteria for effective legislation on arms brokering, and to continue discussion of enforcement measures."

49. The Group was also encouraged by the concern of the participating States of the Wassenaar Arrangement, expressed in the same public statement, about

> "... illicit arms flows to zones of conflict and areas covered by [United Nations Security Council] embargoes, as well as licit transfers to zones of conflict from States not participating in the Wassenaar Arrangement. They stressed their commitment to support the [United Nations Security Council's] efforts to prevent transfers to ... terrorist groups operating from and in Afghanistan."

50. It should be noted that although the Wassenaar Arrangement does not cover notification of sales of new small arms, it does cover the notification by participating States of the sale or transfer of used small arms and light weapons, for example from demilitarized national stocks.

51. The Group's discussion with the Arrangement also explored measures being considered by the participating States to improve the overall effectiveness of controls in the arms industry and to reinforce recommendations of other United Nations mechanisms concerning the standardization of end-user certificates.[7] The Group raised the subject and the modalities of the transfer of property rights. The Group is concerned that, in most cases, when a legitimate sale takes place, the supplier considers that the property rights of the items ordered are transferred when they pass the factory gate. On the other hand, most buyers consider that they have not acquired the property rights until the items are in their possession. Hence there is a "time vacuum" when it is possible to divert a consignment, especially in those cases where the transaction is handled by a dealer or a third party.

52. The discussions also touched on the membership of the Wassenaar Arrangement. The Group is of the opinion that membership by all arms-manufacturing countries in the Arrangement would greatly facilitate the efforts to achieve better and more comprehensive standards in the area of arms control.

[6] Operation conducted in eastern Afghanistan during March 2002. Operation Anaconda included the Shah-i-Kot engagement.

[7] The certificates, which are regularly forged, are one of the key aspects of the arms trade.

53. The Group maintains a working relationship with the International Atomic Energy Agency, at its request, in view of the Group's work in connection with weapons of mass destruction. There is sufficient evidence of al-Qa'idah's intention to attempt to develop such weapons. The Group will therefore continue discussions on the subject with States during forthcoming visits.

54. In the Group's previous report (S/2002/65), issued pursuant to resolution 1363 (2001) on 15 January 2002, reference was made to the existence in Afghanistan, prior to 11 September 2001, of a number of Scud missiles. To date the Group has received no information concerning the location, ownership or status of these surface-to-surface missiles. The Group remains concerned that, until the location and status of these weapons is known, the possibility of the missiles or parts of them falling into the wrong hands cannot be ignored.

VII. Analysis of "90-day" reports submitted by States pursuant to resolution 1390 (2002)

55. All States were requested to report to the Committee by 16 April 2002 on the steps taken to implement the measures required by resolution 1390 (2002). To assist States in preparing the reports the Committee prepared guidelines for submission of reports by States pursuant to Security Council resolution 1390 (2002). On the basis of the Committee guidelines the Group has started to develop a database to assist in the process of reviewing and analysing the reports submitted. As at 29 April 2002, 43 States have reported to the Committee. The Group has been able to review 33 of these reports, while the remaining 10 have been sent for translation. A brief overview of the reports is found in annex II. In 11 of the reports, States refer, in general terms, to information already submitted pursuant to resolution 1373 (2001), while 6 refer to specific paragraphs of their response to resolution 1373 (2001).

56. The Group has prioritized those reports which it wants to further discuss with States, including States that have common borders with Afghanistan, those that maintained close political and economic ties with the Taliban regime, and those whose legal frameworks may require strengthening in order to better implement the freezing of assets, the tightening of banking regulations and the improvement of border and customs controls. In analysing the reports, the Group will assess to what extent States have implemented the measures called for in paragraph 2 of resolution 1390 (2002). That analysis will give the Group a better understanding of the difficulties States face in implementing these measures. The Group will also try to identify specific areas in which States can enhance their capacity to implement the measures set out in resolution 1390 (2002).

57. So far, an initial analysis of the reports received indicates a considerable divergence in the contents. Even allowing for overlap, in the information requested by the Counter-Terrorism Committee, of general measures being taken to combat international terrorism and the much more specific requirements of resolution 1390 (2002), a number of responses will necessitate further follow-up with States. The variance in the information provided highlights the need for some countries to enact enabling legislation to accommodate the requirements of Security Council resolutions adopted under Chapter VII of the Charter, but shows that others are in a position to enforce the measures with governmental decrees or through administrative measures. Closer adherence to the Committee's guidelines for submission of the reports would simplify the work of the Group.

58. The Group is of the opinion that many States are not fully aware of the mandate of the Group as distinct from the role and function of the Counter-Terrorism Committee. This subject has been raised by a number of government officials during the Group's meetings with States. On those occasions the Group was able to explain the difference.

VIII. Observations and conclusion

59. Failure to share intelligence information is always a problem, and there are legitimate concerns related to ongoing criminal cases. Those legitimate concerns, however, do not completely account for the apparent lack of transparency in providing information about individuals or entities. The Group has found some States to be extremely helpful, while the reluctance of others to provide information could be described as almost obstructive.

60. The effective implementation of the measures stipulated in resolution 1390 (2002) depends heavily on

the list. In order to simplify its use by States and to prevent the information it contains being misinterpreted the Group has identified a number of improvements.

61. The FATF report of June 2001 indicates that the amount of money laundered globally is estimated at $500 billion to $1 trillion per year. Much remains to be done, especially when considering those who are on the list and who have shifted their assets to financial venues where enforcement is less robust — thereby making them less accessible — and those who do not yet appear on the list.

62. Similarly, whereas some States have clearly made considerable efforts to reduce the opportunities for al-Qa'idah and the Taliban and their supporters and sympathizers to have ready and unhindered access to financial and economic assets, other States have not yet done so.

63. Commitment to United Nations conventions and international agreements aimed at establishing improved norms of international responsibility and, in some cases, better controls in problem areas such as financing of terrorist activities and arms trafficking is to be encouraged. Without such commitment the more specific measures required under resolution 1390 (2002) will be more difficult to implement.

64. There are allegations, as yet unconfirmed by the Group, that al-Qa'idah has diversified its global financial transactions into trading in gold and precious stones, and is using alternative remittance systems in addition to the formal banking system.

65. Al-Qa'idah and its associates continue to utilize the Internet as an effective means of communicating globally and in support of their logistics requirements. Efforts to hinder and even neutralize this capability will continue to pose a major challenge for law enforcement agencies worldwide, but methods of combating this aspect of al-Qa'idah operations and those of its associates must be addressed with energy and resourcefulness and without delay.

66. The Group fully recognizes that the ultimate responsibility for implementing all Security Council resolutions in general, and 1390 (2002) in particular, rests with States. The Group also acknowledges that relevant information needs to be provided to States to enable them to fulfil their tasks. However, the Group suggests that States take a more proactive approach when implementing the measures called for in paragraph 2 of resolution 1390 (2002), especially in those cases where States encounter problems.

67. As a result of the information acquired to date and its analysis, the Group will, during the next phase, have to concentrate its efforts in working closely with Governments, organizations and agencies of States in Europe, the Middle East, and central and southern Asia.

IX. Recommendations

The list, with respect to its use for freezing financial assets and implementation of the travel ban

68. The Group recommends that the list contain the minimum criteria needed to enhance implementation and minimize the risk of non-compliance. In updating the list, the Group recommends:

69. That on all possible occasions the names on the list should follow the correct cultural construction. Titles such as Mullah should be placed after the name.

70. That the list should be maintained chronologically and numerically. When a name is added to the list, it should be placed at the end. When an individual or an entity is removed from the list, it is recommended that the serial number be retained, duly annotated with the reference of the executive body authorizing the deletion and any other explanation the Committee may deem appropriate. Preparing the list in a format that will allow it to be presented either numerically or alphabetically is considered by the Group to be highly desirable, especially for its use by financial institutions and immigration officials.

71. To improve dissemination of the list and to reduce the opportunities for non-compliance the Group is of the opinion that it would be helpful if the list were produced in all the official languages of the United Nations.

72. States should strive to provide as many identifiers as possible when submitting names for inclusion in the list to reduce the chances for ambiguity and cases of mistaken identity.

73. States should ensure that the list is widely disseminated to all relevant government officials at

every level required to ensure the effective implementation of resolution 1390 (2002).

Freezing and control of financial assets

74. The Group encourages States to become parties to the International Convention for the Suppression of the Financing of Terrorism, committing themselves to this Convention as a general step towards implementing the measures required under resolution 1390 (2002).

75. The Group recommends that all States that are involved in the trade of rough diamonds participate in the Kimberley Process in order to reduce the opportunities for the diamond trade to be abused by al-Qa'idah and its supporters as a means of moving financial resources without detection.

Arms embargo

76. The Group would encourage all arms-producing States to become members of the Wassenaar Arrangement. This would increase the transparency of international arms exports, which in turn would facilitate the implementation of specific embargoes, such as the one called for in resolution 1390 (2002).

77. The Group considers that, in parallel with the efforts of the Wassenaar Arrangement, States should work towards the standardization of end-user certificates, which will make it much more difficult to counterfeit them.

78. The Group urges States to register and license all their nationals operating as arms brokers or dealers within their territory, as well as persons over whom the State has jurisdiction who may be operating abroad in such a capacity, and to make this information available, on request, to the United Nations groups or mechanisms involved in monitoring arms embargoes.

Annex I

Sample form of suspicious transaction report

NCIS
NATIONAL CRIMINAL INTELLIGENCE SERVICE
John Abbott Q P M , B A (Hons)
Director General

Economic Crime Unit
PO Box 8000
LONDON
SE11 5EN

Disclosure Report

Your Ref:	Sheet No: **1 of 1**
Disclosure Type:	Disclosure Date:
New or Update: **New**	Existing Disclosure ID:
Constructive Trust: ☐	Further Information: ☐
Source ID:	Source Outlet ID:
Today's Date: **15/03/2002**	

Main Subject (Person or Company)

Surname:	Forenames(s):	Title:
Date of Birth:	Gender:	
Occupation:	Employer:	

or

Company Name:	Company No.
Type of Business:	VAT No.
Country of Reg:	

Address (Number, Street, City/Town, County, Country)	Post Code	Type	Current

ID Information	Unique Information ID	Extra Information /Description
Other Information		

Transactions

Disclosed Account Details:			
FI ID:		Sort Code:	
Opened:	Closed:	Turn' Cd:	Turn' Db:
Acct Name:		Acct No:	
Acct Bal:	Bal Date:	Turn' Pd:	
Individual Transactions with Counterparty Account Details:			
1. Date:	Amount:	Currency:	Cr/Db:
Type:	Notes:		
FI ID:		Sort Code:	
Acc Name:		Acct No:	
2. Date:	Amount:	Currency:	Cr/Db:
Type:	Notes:		
FI ID:		Sort Code:	
Acc Name:		Acct No:	
3. Date:	Amount:	Currency:	Cr/Db:
Type:	Notes:		
FI ID:		Sort Code:	
Acc Name:		Acct No:	
4. Date:	Amount:	Currency:	Cr/Db:
Type:	Notes:		
FI ID:		Sort Code:	
Acc Name:		Acct No:	
5. Date:	Amount:	Currency:	Cr/Db:
Type:	Notes:		
FI ID:		Sort Code:	
Acc Name:		Acct No:	
6. Date:	Amount:	Currency:	Cr/Db:
Type:	Notes:		
FI ID:		Sort Code:	
Acc Name:		Acct No:	
7. Date:	Amount:	Currency:	Cr/Db:
Type:	Notes:		
FI ID:		Sort Code:	
Acc Name:		Acct No:	
8. Date:	Amount:	Currency:	Cr/Db:
Type:	Notes:		
FI ID:		Sort Code:	
Acc Name:		Acct No:	

Associated Subject 1 (Person or Company)

Surname:	Forenames(s):	Title:
Date of Birth:	Gender:	
Occupation:	Employer:	
Reason For Association:		

or

Company Name:	Company No.
Type of Business:	VAT No.
Country of Reg:	
Reason For Association:	

or

Subject Already Exists As Main Subject of a Previous Disclosure	
Existing Disclosure ID:	Your Ref:
Reason For Association:	

Address (Number, Street, City/Town, County, Country)	Post Code	Type	Current

Information	Unique Information ID	Extra Information /Description
General Information:		

Associated Subject 2 (Person or Company)

Surname:	Forenames(s):	Title:
Date of Birth:	Gender:	
Occupation:	Employer:	
Reason For Association:		

or

Company Name:	Company No.
Type of Business:	VAT No.
Country of Reg:	
Reason For Association:	

or

Subject Already Exists As Main Subject of a Previous Disclosure	
Existing Disclosure ID:	Your Ref:
Reason For Association:	

Address (Number, Street, City/Town, County, Country)	Post Code	Type	Current

Information	Unique Information ID	Extra Information /Description
General Information:		

Annex II

Brief overview of reports submitted pursuant to Security Council resolution 1390 (2002)

Number of reports received as at 29 April 2002	43
Reports yet to be translated	10
Number of reports analysed	33

Measures taken to implement paragraph 2 (a) of resolution 1390 (2002)

Number of States which have adopted legal measures to implement paragraph 2 (a) of resolution 1390 (2002)	22
Number of States which are in the process of adopting legal measures to implement paragraph 2 (a) of resolution 1390 (2002)	4
Number of States which have adopted administrative measures to implement paragraph 2 (a) of resolution 1390 (2002)	17

Monetary value of assets frozen

	United States dollars
Italy	3 738 000.00 (€4.2 million)
	117 624.00
Japan	600 000.00
Portugal	287.58 (€323.12)
United Kingdom	481 579.23 (£321 052.82)
Total	4 937 490.81

Number of States which have provided account numbers in relation to the assets frozen	None

Measures taken to implement paragraph 2 (b) of resolution 1390 (2002)

Number of States which have adopted legal and administrative measures to implement paragraph 2 (b) of resolution 1390 (2002)	18
Number of States which have adopted only administrative measures	11

Measures taken to implement paragraph 2 (c) of resolution 1390 (2002)

Number of States which have adopted legal and administrative measures to implement paragraph 2 (c) of resolution 1390 (2002)	20
Number of States which have adopted only administrative measures	7

Information submitted to the Counter-Terrorism Committee

Number of reports in which **specific** reference was made to the report submitted pursuant to resolution 1373 (2001)	6
Number of reports in which **general** reference was made in relation to the report submitted pursuant to resolution 1373 (2001)	11

Annex III

Meetings of the Monitoring Group with representatives of Governments, international and regional organizations and private agencies

Austria

International organizations

International Atomic Energy Agency, Department of Safeguards
International Narcotics Control Board
Office for Drug Control and Crime Prevention, Centre for International Crime Prevention, Terrorism Prevention Branch, Global Drug Reduction Enforcement Section, Global Programme against Money Laundering
Organisation for Security and Cooperation in Europe, Senior Police Adviser
Wassenaar Arrangement, secretariat

Belgium

Government

Ministry of Foreign Affairs
Ministry of Economic Affairs
Ministry of Justice
Office of the Public Prosecutor, Brussels

Others

High Diamond Council
Specialist consultants
Media representatives

France

Government

Ministry of Foreign Affairs

International organizations

International Criminal Police Organization (Interpol)

Others

Specialist consultants
Media representatives

Germany

Others

Specialist consultants
Media representatives

United Kingdom

Government

Foreign and Commonwealth Office
Treasury
Department of Trade and Industry
Bank of England
National Criminal Intelligence Unit

Others

Specialist consultants
Media representatives

United States of America

Government

State Department
Department of Treasury

Others

Specialist consultants
Media representatives

The Group maintained dialogue with States and requested specific information from

Permanent Mission of Belgium to the United Nations
Permanent Mission of Bulgaria to the United Nations
Permanent Mission of Egypt to the United Nations
Permanent Mission of the Islamic Republic of Iran to the United Nations
Permanent Mission of Pakistan to the United Nations
Permanent Mission of Saudi Arabia to the United Nations
Permanent Mission of Singapore to the United Nations
Permanent Mission of Somalia to the United Nations
Permanent Mission of the United Arab Emirates to the United Nations

The Group had briefings with experts on issues including

Money-laundering and assets freezing
Alternate remission systems
Human rights (arms control measures)